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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,861	02/09/2004	Andrew J. Sullivan	61658.000001	9492

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Peter G. Thurlow, Esq.
326 South Pleasant Avenue
Ridgewood, NJ 07450

EXAMINER

GUIDOTTI, LAURA COLE

ART UNIT	PAPER NUMBER
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1744

MAIL DATE	DELIVERY MODE
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08/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/774,861

Applicant(s)

SULLIVAN, ANDREW J.

Examiner

Laura C. Guidotti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7,8 and 11-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8 and 11-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

Paragraph 6 of the Specification, amended on 05 June 2007 still describes prior art in detail by using reference numerals in Line 6 (reference numeral 24). This is confusing because the prior art is not shown in the drawings and the number does not correspond to any parts of the Applicant's figures. The reference numerals referring to prior art should be removed.

Appropriate correction is required.

Claim Objections

2. Claim 11 is objected to because of the following informalities:

Claim 11 recites the limitation "the opening" in Line 1, however "opening" is pluralized in claim 1 (from which claim 11 depends). It appears however that Applicant intends "openings."

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects

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for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 5, 7-8, 11-13, and 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Dobson, US 2005/0051278.

Dobson discloses the claimed invention including a pole (30, 32) having a general U-shaped bracket at one end (includes 20a, 20b, and 21; see Figures), a roller (16) connected by a first securing means to the general U-shaped bracket (pin 18), a general L-shaped bracket having a horizontal leg (36) and vertical leg (38), wherein the horizontal leg includes openings (where 37a, 37b are located) for a second securing means to secure the general U-shaped bracket to the general L-shaped bracket (see Figures, particularly Figure 2). Regarding claim 2, the vertical leg includes openings for a third securing means to secure a blade (40) to the general L-shaped bracket (Figure 2, openings are unlabeled). Regarding claims 3, 13, and 18, the roller has a solid core (as the roller is a solid, paragraph 35). Regarding claim 5, the roller has a same diameter from one end of the roller to the other end of the roller (as shown in Figures). Regarding claim 7, an other end of the pole has a female fitting (in that it is tubular and is capable of accepting a male fitting). Regarding claim 8, an other end of the pole has a ball-like object connected thereto (wheel 50 is "ball-like"). Regarding claims 11 and 16, the openings are slotted openings (as the openings mentioned above are inherently slots). Regarding claim 12, the blade (40) has openings at generally its base to receive a third securing means to secure the blade to the vertical leg (not labeled, see Figure 2), wherein the roller and the blade are arranged on generally parallel vertical planes, generally opposed to each other (as shown in Figures). Regarding claim 17, the blade

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has a greater width than a width of the roller (see Figures 1 and 5, the blade 40 has a width or span past 20a and 20b, the roller has a width so as to fit between 20a and 20b).

4. Claims 1-5 and 11-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Sweeny, US 4,707,202.

Sweeny discloses the claimed invention including a pole (12) having a general U-shaped bracket at one end (formed by 136 and 76), a roller (82 or 86) connected by a first securing means to the general U-shaped bracket (shaft 84 or 88), a general L-shaped bracket having a horizontal leg (146) and vertical leg (150), wherein the horizontal leg includes openings (where 148 is located) for a second securing means to secure the general U-shaped bracket to the general L-shaped bracket (see Figures, particularly Figures 2-2A). Regarding claim 2, the vertical leg includes openings for a third securing means to secure a blade (152) to the general L-shaped bracket (150, 154). Regarding claims 3, 13, and 18, the roller has a solid core (as the roller is a solid, constructed of hard rubber, Column 5 Lines 36-38). Regarding claims 4, 13, and 19 the roller has an increasing diameter from the ends of the roller to the center of the roller (as shown on roller 86 in Figure 2). Regarding claims 5 and 14, the roller has a same diameter from one end of the roller to the other end of the roller (roller 82 as shown in Figures). Regarding claim 9, the first securing means comprises through bolts connected to each end of the roller, the connection not impeding the movement of the roller (see Figures). Regarding claims 11 and 16, the openings are slotted openings (as the openings mentioned above are inherently slots). Regarding claim 12, the roller and

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the blade are arranged on generally parallel vertical planes, generally opposed to each other (as shown in Figures). Regarding claim 15, each end of the roller is open and would have been capable of having been drilled and tapped to receive the first securing means (shaft 84 or 88 must fit within the roller, drilled and tapped are considered to be product-by-process limitations). Regarding claim 17, the blade has a greater width than a width of the roller (see Figure 2 particularly).

Response to Arguments

5. Applicant's arguments filed 05 June 2007 have been fully considered but they are not persuasive.

The Applicant particularly points out and emphasizes that the taping tool as recited in the claims is designed "to *clean* taped seams of drywall, not to *apply* tape and compound to a seam" in regards to both Dobson and Sweeny. In response to applicant's argument that neither Dobson nor Sweeny comprise a taping tool *for cleaning taped seams of drywall*, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Both Dobson and Sweeny are capable of being used to clean taped seams of drywall. A user would be capable of manipulating the devices of Dobson and Sweeny in such a way to clean and remove excess compound from the taped seams. While the Examiner recognizes that Dobson and Sweeny aren't used in such a manner, a user would be

capable of grasping the handle of either and use the blade, brackets, edges, or planar surfaces to rub against and clean or remove the excess materials.

The Applicant argues that Dobson does not disclose that there is a pole having a simple U-shaped bracket at one end. However, the Examiner respectfully disagrees. Claims 1, 12, and 17 each recite "a pole having a general U-shaped bracket". As clearly shown in the Figures of Dobson the features 20a and 20b with the rear wall of the frame 21 form a general U-shaped bracket. The Applicant further remarks that "any roller (2) as recited in Claim 1 of the present invention would have to include the roll "R" as shown in Fig. 1 of Dobson". This argument is confusing to the Examiner. Also, the Applicant contends that Dobson does not include the general L-shaped bracket, and that numerals 36, 38 of Dobson refer to a cutting member and a cutting blade. The Examiner also respectfully disagrees to this assertion, as 36, 38 clearly as shown in the Figures refer to a "general L-shaped bracket".

The Applicant argues that "one of ordinary skill in the art would not equate such a leg and pin to the general U-shaped bracket recited in claim 1." However, Claims 1, 12, and 17 each recite "a pole having a general U-shaped bracket". As clearly shown in the Figures of Sweeny the features formed by 136 and 76 (see particularly Figure 2) form a general U-shaped bracket. Also, the Applicant contends that Sweeny does not include the general L-shaped bracket, and that numerals 146 and 150 are directed to various flanges. The Examiner also respectfully disagrees to this assertion, as 146 and 150 clearly as shown in the Figures refer to a "general L-shaped bracket".

It is particularly noted that claim 1 uses the term "comprising" and requires that the taping tool includes "a pole having a general U-shaped bracket at one end, a roller connected by a first securing means to the general -shaped bracket, and a general L-shaped bracket having a horizontal leg and a vertical leg, wherein the horizontal leg includes openings for a second securing means to secure the general U-shaped bracket to the general L-shaped bracket." Dobson and Sweeny disclose the invention as claimed.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

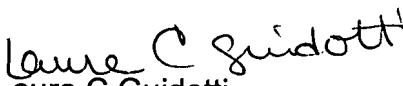
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Laura C Guidotti
Patent Examiner
Art Unit 1744

lcg